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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,979	06/26/2003	Kirkland.W. Vogt	5014A	6442

25280 7590 10/18/2007
Legal Department (M-495)
P.O. Box 1926
Spartanburg, SC 29304

EXAMINER

DAVIS, JENNA L

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/606,979	Applicant(s) VOGT ET AL.	
	Examiner Jenna Davis	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 4-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 4-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 8, 2007, has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 4-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (US 4109038) in view of Lovingood (US 2003/0190853).

Hayashi et al. teach a suede-like raised woven fabric that comprises warp yarns and weft yarns and an elastic polymer applied to the fabric (abstract). The fibers can be natural fibers such as wool or cotton (col. 5 lines 65-67). After application, the elastic polymer can be solidified by coagulation (col. 7 lines 19-20). The woven fabric can have a satin weave construction (col. 13 lines 34-35). The raised fibers are napped fibers (col. 11 Table 1). The coating is applied to the back-side surface, or the surface that has the least amount of raised fibers, if both sides have undergone the raising process (col. 7 lines 1-3). As shown in Example 1, the woven fabric has 70 warps/inch and 56 wefts/inch. According to Example 3, the weight of the fabric is 301 grams per square meters (Table 1). Claims 12-13 recite a property limitation.

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Hayashi et al. would necessarily have a cotton count of the filling yarns in the range of 4/1 through 32/1 and 4/2 through 32/2 and warp yarns in the range of 8/1 through 32/1 and 8/2 through 32/2. The elastic polymer is also impregnated into said fabric (claim 7), which meets the limitation of claim 2 which requires that the polymer is partially incorporated into the fabric.

The claims now require the elastomer to be coagulated polymer latex consisting of a waterborne polymer latex, an acid-generating chemical, a cloud-point surfactant, and a foam-stabilizing surfactant that is suitable for subsequent transfer or film coating. The Examiner equates these recitations as process limitations that fail to define the claimed final product from the teachings of the prior art. For example, the coagulated latex would not contain an acid-generating chemical, it would contain the acid. As to the suitability for subsequent transfer or film coating, the final product is coated and thus this recitation fails to define the material from the prior art.

Hayashi et al. fail to teach calendaring of the material and the use of only natural fibers in both the warp and the weft. Lovingood is drawn to stretchy woven fabrics using natural yarns. Lovingood teaches that the woven fabric can be napped or calendered on the surface (pg.3 par.0032). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use calendaring on the surface of the fabric of Hayashi et al. as taught by Lovingood motivated to create a smooth surface of the woven fabric. Further it would have been obvious to use the natural fibers of Lovingood to the weft of Hayashi as a means to save money on the expensive composite yarns provided by Hayashi with the reasoned expectation that a fabric with good surface texture would be provided as taught by Lovingood. A person having ordinary skill in the art would have appreciated that this cost savings would accompany the loss

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of some properties of the composite yarns of Hayashi and would have found such a modification obvious with the reasoned expectation that the material would cost less while having lower density than the composite fibers of Hayashi.

Applicant's arguments filed August 8, 2007, have been fully considered but they are not persuasive.

The arguments regarding Hayashi's use of single twist or loopy textured filament yarns are not found persuasive as set forth above in the body of the rejection.

While the present claims limit the contents of the latex used to make the claimed invention, this recitation is a process limitation that is not seen to define the claimed article from the prior art.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, a person having ordinary skill in the art would have appreciated that by using natural fibers, a lower cost product could be produced. This is ample motivation to modify the teachings of Hayashi as set forth in the rejection.

In addition a person having ordinary skill in the art would have appreciated that calendaring the material as in Lovingood would have provided the enhanced smoothness associated with such treatment as set forth in the rejection.

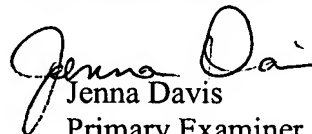
Regarding the limitations set forth in the claims, the Examiner maintains that the use of solely natural fibers would have been motivated by the desire to produce a less expensive product, and that the process limitation regarding the latex fail to limit the final product in the manner argued.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna Davis whose telephone number is 571-272-3357. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jenna Davis
Primary Examiner
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